

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

GRUPO EXPERIENCIAS XCARET, S.A.P.I. DE C.V.,
a Mexican company, EXPERIENCIAS XCARET HOTEL
S.A.P.I. DE C.V., a Mexican Company, and
DESTINO XCARET S.A.P.I. DE C.V.,
a Mexican Company,

Plaintiffs,

vs.

Case No. _____

JURY TRIAL REQUESTED

VACATION TOURS, INC., d/b/a VACATION
STORE OF MIAMI, a Florida Corporation,
MEDIA INSIGHT GROUP, INC.,
a Florida Corporation, GEORGE A. ALVAREZ,
an Individual, ALEXANDRA ALVAREZ, An Individual,
and ROSANNA M. MENDEZ, an Individual,

Defendants

**COMPLAINT FOR WILLFUL TRADEMARK INFRINGEMENT,
CYBERSQUATTING, UNFAIR COMPETITION AND RELATED DAMAGES**

Plaintiffs GRUPO EXPERIENCIAS XCARET, S.A.P.I. DE C.V. (“Grupo Xcaret”), EXPERIENCIAS XCARET HOTEL, S.A.P.I. DE C.V. (“Xcaret Hotels”) and DESTINO XCARET S.A.P.I. DE C.V. (“Destino Xcaret”) (Grupo Xcaret, Xcaret Hotels and Destino Xcaret collectively “Xcaret”), hereby sue Defendants VACATION TOURS, INC. d/b/a VACATION STORE MIAMI (“Vacation Store”), MEDIA INSIGHT GROUP, INC. (“Media Insight”), GEORGE A. ALVAREZ (“Mr. Alvarez”), ALEXANDRA ALVAREZ (“Ms. Alvarez”) and ROSANNA M. MENDEZ (“Mendez”) (Vacation Store, Media Insight, Mr. Alvarez, Ms. Alvarez, and Mendez collectively “Defendants”) for willful trademark infringement, cybersquatting, unfair competition and related damages.

In support, Xcaret alleges as follows:

THE PARTIES

1. Grupo Xcaret is company located at Carretera Chetumal – Pureto Juarez Km 282 B, Rancho Xcaret, Solidaridad, Quintana Roo, C.P. 77710 Mexico. Created in or around 1990, Grupo Xcaret is a 100% Mexican owned sustainable tourist recreation services company. Grupo Xcaret owns and maintains several subsidiary companies located in the Riviera Maya of the Mexican Yucatan Peninsula (also known as the Mexican Caribbean) providing these services, including the internationally known and recognized ecotourist Xcaret Park which opened in December 1990.

2. Xcaret Hotels is a subsidiary of Grupo Xcaret also located at Carretera Chetumal – Pureto Juarez Km 282 B, Rancho Xcaret, Solidaridad, Quintana Roo, C.P. 77710 Mexico. Since December 2017, Xcaret Hotels has maintained, operated and run luxury hotels located proximate to Xcaret Park, which has grown to the include the following three unique lodging establishments:

Xcaret Hotel Name	Website Address for Hotel	Reference for Hotel Website:
La Casa De La Playa	https://www.lacasadelaplaya.com/en/	“La Casa Website”
Hotel Xcaret Mexico	https://www.hotelXcaretmexico.com/en/	“Hotel Xcaret Mexico Website”
Hotel Xcaret Arte	https://www.hotelXcaretarte.com/en/	“Hotel Xcaret Arte Website”

In addition to the aforementioned three hotel-specific websites, Xcaret Hotels maintains and employs its general website <https://www.hotelXcaret.com/en/> (the “Xcaret Hotels Website”) to collectively advertise all three hotels, as well as to offer direct bookings under the **XCARET** name.

3. Destino Xcaret is the wholly owned subsidiary of Grupo Xcaret also located at Carretera Chetumal – Pureto Juarez Km 282 B, Rancho Xcaret, Solidaridad, Quintana Roo, C.P. 77710 Mexico. Destino Xcaret provides advertising, marketing and promotional services for Grupo Xcaret, including Xcaret Hotels - as well as has filed, prosecuted and maintained certain

trademark applications pending before the U.S. Patent & Trademark Office (“USPTO”) on behalf of Grupo Xcaret and its various subsidiaries.

4. Vacation Store is a Florida corporation located at 4201 SW 11th Street, Coral Gables, Florida 33134. According to its website at www.VacationStoreMiami.com (the “Vacation Store Website”), Vacation Store provides hotel booking services and “offers all-inclusive vacations at unbelievable discounts on an extensive selection of resorts in the Caribbean” with a focus on resorts located the Mexican Caribbean. Vacation Store additionally advertises and markets its hotel booking services via social media at <https://www.instagram.com/vacationstoremiami/> (“Vacation Store Instagram Page”) and at www.facebook.com/VacationStoreMiami/ (“Vacation Store Facebook Page”).

5. Media Insight is a Florida corporation located at 3821 NE 34th Ave., Fort Lauderdale, Florida 33308. According to its website at www.MediaInsightGroup.com (the “Media Insight Website”), Media Insight “is an Internet marketing company that provides Web-based advertising solutions to businesses that service the tourism and hospitality industries,” which owns “3,500 operating websites,” which it leases to its clients. Upon information and belief, Media Insight owns and/or maintains the following three domain names (the “Implicated Domain Names” or “Implicated Websites”) which include unauthorized uses of the three Xcaret Hotels names:

La Casa De La Playa	http://lacasadelaplayaresort.com	“Implicated La Casa Website”
Hotel Xcaret Mexico	www.HotelXcaretResort.com	“Implicated Hotel Xcaret Mexico Website”
Hotel Xcaret Arte	www.HotelXcaretArteResort.com	“Implicated Hotel Xcaret Arte Website”

6. Mr. Alvarez is an individual living and residing at 3821 NE 34th Ave., Fort Lauderdale, Florida 33308. Upon information and belief, Mr. Alvarez is the sole owner and moving force behind Media Insight as well as its registration of various domain names, including

the three above listed Implicated Domain Names having unauthorized uses of the Xcaret Hotels names. Mr. Alvarez also owns and maintains, for the benefit of both Media Insight and Vacation Store, U.S. Trademark Registration No. 5,577,658 for the mark HOTELXCARETRESORT.COM in connection with travel services in International Class 43 (the “Implicated Registration”).

7. Ms. Alvarez is an individual living and residing at 3821 NE 34th Ave., Fort. Lauderdale, Florida 33308. Upon information and belief, Ms. Alvarez is an owner and moving force behind Vacation Store, who oversees, directs, manages, approves and/or controls Vacation Store’s unauthorized, improper, and confusing use of Xcaret’s **XCARET** name.

8. Mendez is an individual living and residing at 3228 SW 62nd Court, Miami, Florida 33155. Upon information and belief, Mendez is an owner and moving force behind Vacation Store, who oversees, directs, manages, approves and/or controls Vacation Store’s unauthorized, improper, and confusing use of Xcaret’s **XCARET** name.

JURISDICTION AND VENUE

9. This Court has Federal subject matter jurisdiction over this matter pursuant to 28 U.S.C. §§1331 and 1338(a) and (b), by virtue of 15 U.S.C. §1051 *et seq.*, in that the case arises out of §43(a) of the Lanham Act for trademark infringement and supplemental jurisdiction under 28 U.S.C. §§1367(a) and 1338 (a),(b).

10. Venue is proper, *inter alia*, under 28 U.S.C. §1391(b)(2) because, on information and belief, a substantial part of the events or omissions giving rise to the underlying trademark infringement, cybersquatting and unfair competition claims pled herein occurred in this Judicial District. Such events include Defendants’ advertising, marketing and promotion of hotel booking services – via the Implicated Websites as well as unauthorized use of the Implicated Registration all of which improperly incorporate Xcaret’s strong and distinctive **XCARET** name – which

emanate, are directed, as well as occur within this Judicial District. More specifically, Defendants unauthorized use of the **XCARET** name, the improper registration and later use of HOTELXCARETRESORT.COM, as well as adoption and launch of various additional confusingly similar website names (and use in social media posts) bearing Xcaret's well-recognized **XCARET** name – were all carefully orchestrated to attract potential customers in the Southern District of Florida to book travel to the Mexican Caribbean via Defendants (under the belief that the Implicated Websites are affiliated, endorsed and/or approved by Xcaret). All of the foregoing actions target individuals in this Judicial District, resulting in irreparable harm and consumer confusion, all of which has caused related damages felt by Xcaret within the Southern District of Florida.

GENERAL ALLEGATIONS

Creation of the Xcaret Park in 1990 and its Related Advertising in the United States

11. Opened in 1990, Xcaret Park attracts over one million visitors per year who flock to the ecopark to enjoy its mix of rich Mayan history, Mexican heritage, and local wildlife - all in rich Mexican Caribbean ecosystem of the Riviera Maya.

12. The Xcaret Park site is 47 miles south of Cancun and 4 miles south of Playa del Carmen in the Mexican State of Quintana Roo.

13. Originally purchased in 1984 to be a 12-acre private residence, the property was instead developed as an ecotourist destination after Mexico's Federal Institute of History and Anthropology (INAH) discovered various underground rivers, lagoons and remnants of an ancient Mayan City on the land.

14. Xcaret Park includes portions of that discovered Mayan civilization archeological site – which was occupied by pre-columbian Maya and had functioned as a port of navigation and

an important trading center. Many buildings within this site date from 200 to 600 A.D.

15. Xcaret Park boasts more than 50 attractions, including 11 restaurants, numerous cultural attractions, an open church, a replica of a Mayan village with artisans at work, a Mexican cemetery, a museum, an equestrian show and an open theater offering daily performances.

16. Additional activities at Xcaret Park include a coral reef aquarium, a bird pavilion, a butterfly pavilion, a bat cave, a greenhouse, and water activities (including swimming with the dolphins, sea trek, and scuba).

17. For over 32 years, the Xcaret Park has been advertised, marketed and promoted worldwide, including in the United States, through the strong, distinctive and source-identifying name **XCARET** (the “**XCARET** Mark”) as well as the related logo (the “**XCARET** Logo”):

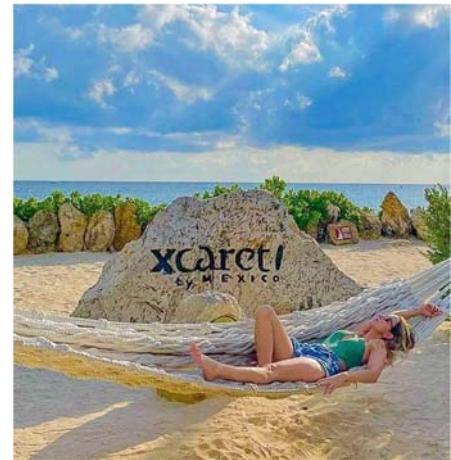
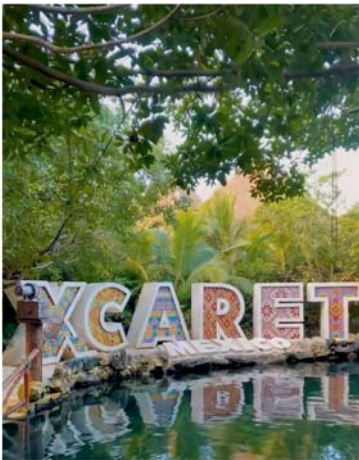


18. The domain name for Xcaret Park was registered in January 1991, and the site www.Xcaret.com (the “**XCARET** Website”) has been used by Xcaret to advertise, market and promote the park’s various ecotourism services for over 30 years –including in the United States.

19. In addition to the **XCARET** Website, Xcaret actively advertises and promotes its various ecotourism services via social media including: (a) via Instagram at <https://www.instagram.com/Xcaretpark> (“**XCARET** Instagram Page”) and (b) via Facebook at <https://www.facebook.com/enXcaretpark> (“**XCARET** Facebook Page”). The **XCARET** Facebook Page has around 2.4 Million followers and the **XCARET** Instagram Page has around 766 thousand followers (collectively the “**XCARET** Social Media Sites”) – both of which create strong rights in the **XCARET** Mark and **XCARET** Logo, based upon their routine English

language postings directed to United States based potential customers.

20. The **XCARET** Social Media Sites actively advertise the **XCARET** Mark to individuals located within the United States (including this Judicial District) seeking to visit the Mexican Caribbean and its related ecotourism opportunities, examples of which are below:







21. Based on the foregoing, including the extensive use of the unique **XCARET** name via the **XCARET** Website, the **XCARET** Social Media Sites, and various related advertising and marketing efforts – the **XCARET** Mark and **XCARET** Logo have become well-known in the United States and are associated with Xcaret's goodwill and reputation in the field of travel.

Additional Tours and Related Ecotourism Parks Associated with the XCARET Mark

22. Since 2010, Xcaret's ecotourism activities has grown to include the following six parks as part of the Xcaret Experiencias Group (the "**XCARET** Experiences"):

Park	Website	Logo
Xplor Park	https://www.xplor.travel/en	
Xel-Ha Park	https://www.xelha.com	

Xenses Park	https://www.xensespark.com/en	
Xichen	https://www.xichen.com.mx/en	
Xenotes	https://www.xenotes.com/en	
Xavage	https://www.xavage.com/en	

23. The Xel-Ha Park is Xcaret's aquatic theme park which boasts a natural aquarium inhabited by hundreds of species, tropical fish and a turtle reserve. A shark fence extends across the lagoon's entrance allowing the public to swim and snorkel amongst the limestone caves and grottos.

24. Xel-Ha Park retains 75% of its habitat through the rescue, reproduction and reforestation of native plants – with more than 400,000 plants in the area. Its logo is shown below:



25. In 2014, Xel-Ha became the first tourist park to obtain the EarthCheck Gold certification based upon its sustainability programs.

26. In addition to the Xel-Ha Website (<https://www.xelha.com>), Xcaret advertises and promotes the park to United States based travelers via social media including: (a) <https://www.instagram.com/xelhahapark> (the “XEL-HA Instagram Page”) with 329K followers, and (b) <https://www.facebook.com/XelHaPark> (the “XEL-HA Facebook Page”) with over 1 Million followers.

27. Xplor Park is an all-inclusive adventure park managed by Xcaret that features zip-lines, an underground expedition, upcoming waterslide, and various food options (multiple smoothie stations and a buffet):



28. In addition to the Xplore Park Website (<https://www.xplor.travel/en/>), Xcaret advertises and promotes the park to United States based travelers via social media including: (a) <https://www.instagram.com/xplorpark> (the “Xplore Instagram Page”) with over 290 thousand followers, and (b) <https://www.facebook.com/XplorPark> (the “Xplore Facebook Page”) with over 630 thousand followers.

29. The Xenses Park features Xcaret’s bird flight ride, salt river, sludgery natural spa, and water slide:



30. In addition to the Xenses Park Website (<https://www.xensespark.com/en/>), Xcaret advertises and promotes the park to United States based travelers via social media, including: (a) <https://www.instagram.com/xensespark> (the “Xenses Instagram Page”) with over 150 thousand followers and (b) <https://www.facebook.com/xensespark> (the “Xenses Facebook Page”) with over 396 thousand followers

31. From 2010 to 2015, Xcaret Experiences – based on the Xcaret Park, Xplor Park the Xenses Park, and Xel-Ha – have been recognized as one of the best Mexican companies by Benamex, Deloitte Mexico and Tecnologico de Monterrey.

32. As such, the Xel-Ha Park, Xplor Park, and the Xenses Park have further

strengthened and further expanded the notoriety and fame of the **XCARET** Mark to travelers from the United States, via the Xel-Ha Website, the Xplor Park Website, the Xenses Park Website and related social media through Instagram and Facebook for these associated parks.

The Three Xcaret Hotels

33. In light of the success of the **XCARET** Experiences, Xcaret Group opted to begin offering various luxury lodging accommodations proximate to the Xcaret Park, the Xel-Ha Park, Xplore Park and the Xenses Park.

34. The first offering – Hotel Xcaret Mexico – was opened in December 2017 as a AAA five-diamond resort offering 900 suites:



35. In addition to advertising via the Hotel Xcaret Mexico Website, Xcaret advertises the Hotel Xcaret Mexico via social media, including: (a) <https://www.instagram.com/hotelXcaretmexico> (“Hotel Xcaret Mexico Instagram Page”) having over 593 thousand followers, and <https://www.facebook.com/hotelXcaretmexico> (“Hotel Xcaret Mexico Facebook Page”) having over 627 thousand followers.

36. The second offering – Hotel Xcaret Arte – opened in July 2021 and offers adults only suites, nine gastronomic experiences, and eco-integrating architecture:



37. The restaurants at Hotel Xcaret Arte feature menus from some of Mexico's culinary leaders, including Paco Mendez, Jonatan Gomez Luna, Alejandro Ruiz, Roberto Solis, Franco Maddalozzo, Luis Arzapalo, Orlando Trejo, Miguel Bautista and Juan Licerio. Hotel Xcaret Arte also features the highly regarded Mulka Spa.

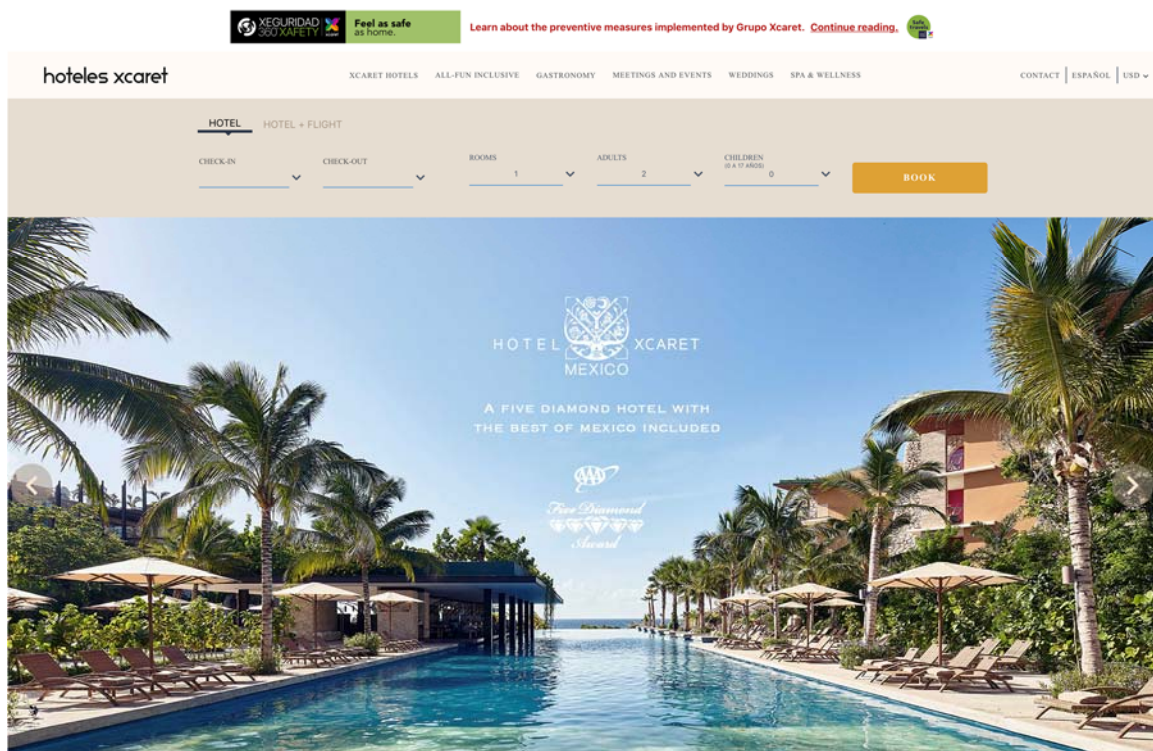
38. In addition to advertising via the Hotel Xcaret Arte Website, Xcaret advertises its Hotel Xcaret Arte via social media, including: (a) <https://www.instagram.com/hotelXcaretarte> (the "Hotel Xcaret Arte Instagram Page") having over 121 thousand followers, and (b) <https://www.facebook.com/HotelXcaretArte> (the "Hotel Xcaret Arte Facebook Page") having over 61 thousand followers.

39. The third offering – La Casa De La Playa - is a boutique hotel opened in December 2021 designed by architect David Quintana having 63 oceanfront suites shown below:



40. In addition to advertising via the La Casa Website, Xcaret advertises for its La Casa De La Playa hotel via social media, including: (a) <https://www.instagram.com/lacasadelaplaya> (“La Casa Instagram Page”) with over 65 thousand followers, and (b) <https://www.facebook.com/LaCasaDeLaPlayabyXcaret> with over 14 thousand followers.

41. Xcaret maintains and operates the Xcaret Hotels Website for purposes of providing direct travel booking services for the foregoing three hotel offerings:

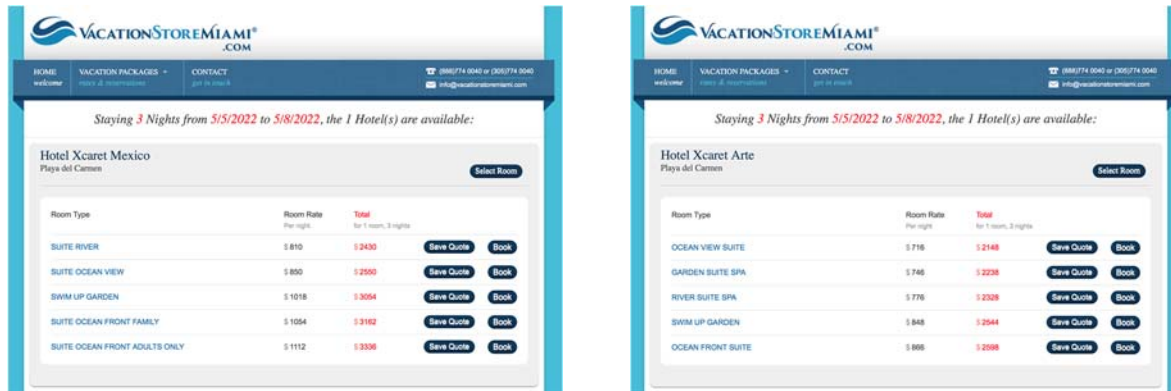


42. Based upon Xcaret’s advertising and promotion through the foregoing websites, Instagram pages, and Facebook Pages, the three Xcaret Hotels have become well-known and recognized as premier resort and lodging establishments in the Mexican Caribbean. As such, Xcaret’s marketing efforts have further associated the **XCARET** Mark with offering high quality lodging services, as well as associated travel booking services via the Xcaret Hotels Website, Hotel Xcaret Mexico Website, the Hotel Xcaret Arte Website and the La Casa Website.

**Defendants' Implicated Hotel Xcaret Riviera Maya Website,
Implicated Hotel Xcaret Mexico Website and Implicated Registration**

43. Vacation Store provides booking services via the Vacation Store Website, with a focus on resorts located or proximate to the Mexican Caribbean.

44. Vacation Store offers booking services relating to Hotel Xcaret Mexico and Hotel Xcaret Arte:

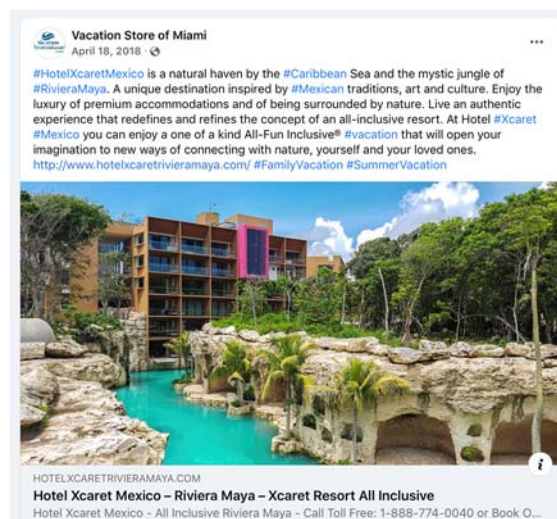


The image shows two side-by-side screenshots of the Vacation Store Miami website. Both screenshots display a table of room rates for a stay from 5/5/2022 to 5/8/2022. The left screenshot is for Hotel Xcaret Mexico, and the right screenshot is for Hotel Xcaret Arte. Both tables list room types, room rates per night, and total rates for a 3-night stay, with 'Save Quote' and 'Book' buttons for each option.

Room Type	Room Rate Per night	Total for 1 room, 3 nights	Buttons
SUITE RIVER	\$ 810	\$ 2430	Save Quote Book
SUITE OCEAN VIEW	\$ 890	\$ 2670	Save Quote Book
SWIM UP GARDEN	\$ 1018	\$ 3054	Save Quote Book
SUITE OCEAN FRONT FAMILY	\$ 1054	\$ 3162	Save Quote Book
SUITE OCEAN FRONT ADULTS ONLY	\$ 1112	\$ 3336	Save Quote Book

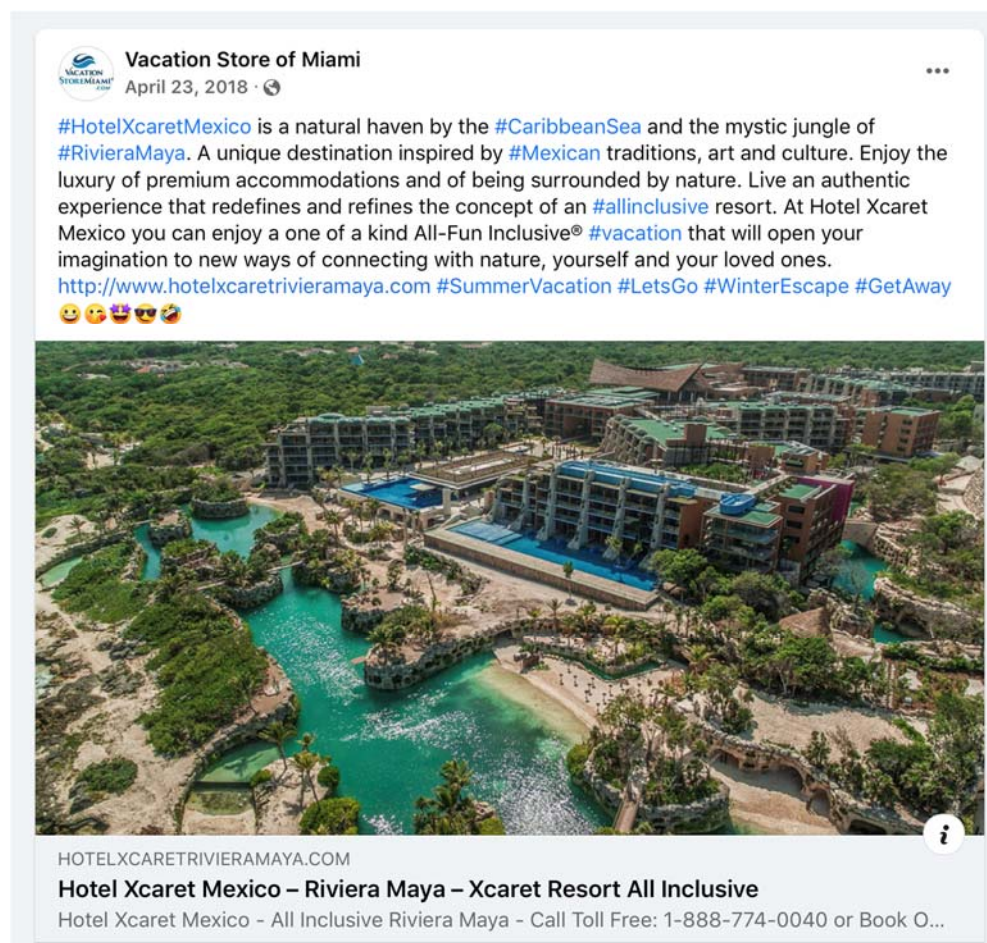
Room Type	Room Rate Per night	Total for 1 room, 3 nights	Buttons
OCEAN VIEW SUITE	\$ 716	\$ 2148	Save Quote Book
GARDEN SUITE SPA	\$ 746	\$ 2238	Save Quote Book
RIVER SUITE SPA	\$ 776	\$ 2328	Save Quote Book
SWIM UP GARDEN	\$ 848	\$ 2544	Save Quote Book
OCEAN FRONT SUITE	\$ 886	\$ 2658	Save Quote Book

45. Starting in April 18, 2018, Vacation Store, via its owners Mrs. Alvarez and/or Mendez, began posting confusing and misleading posts on its social media regarding Hotel Xcaret Mexico to divert potential customers away from both the Xcaret Hotels Website and the Hotel Xcaret Mexico Website, and instead to Defendants' websites for purposes of direct hotel bookings (to obtain and/or gain booking commissions and/or associated booking compensation):



As shown website link provided in the above post is for www.HotelXcaretRivieraMaya.com (the “Implicated Hotel Xcaret Riviera Maya Website”) – which is not affiliated, associated or endorsed by Xcaret, but rather is owned, maintained and/or employed by Defendants.

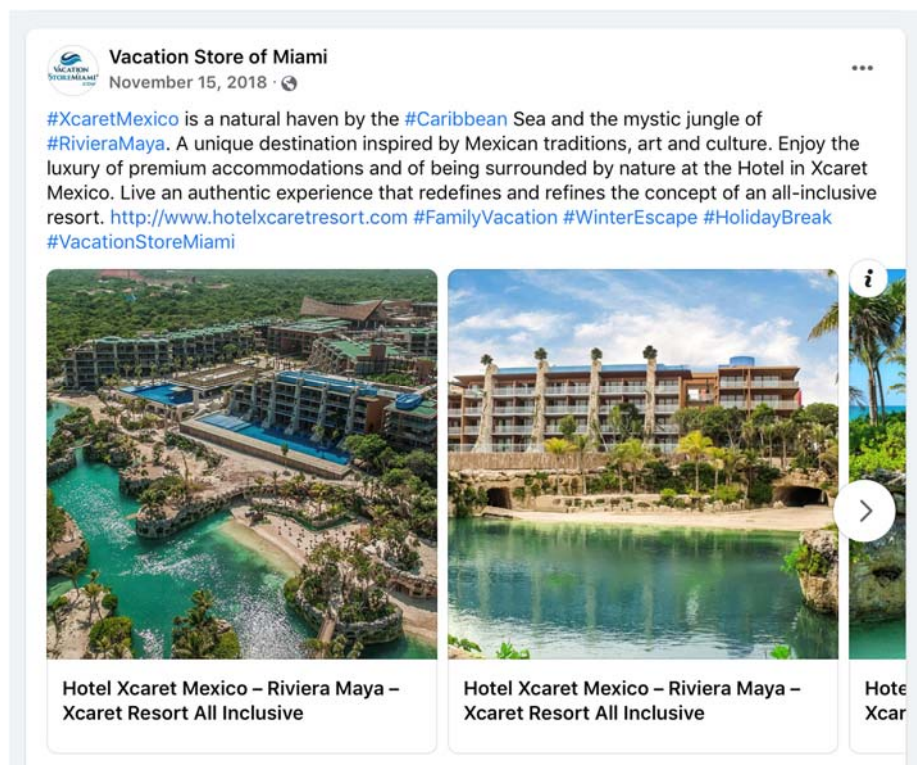
46. A week later, on April 23, 2018, Vacation Store improperly posted a second time, via the Vacation Store Facebook Page, providing a link to Defendants’ Implicated Hotel Xcaret Riviera Maya Website for booking travel to Xcaret (to again seek booking commissions or associated booking compensation):



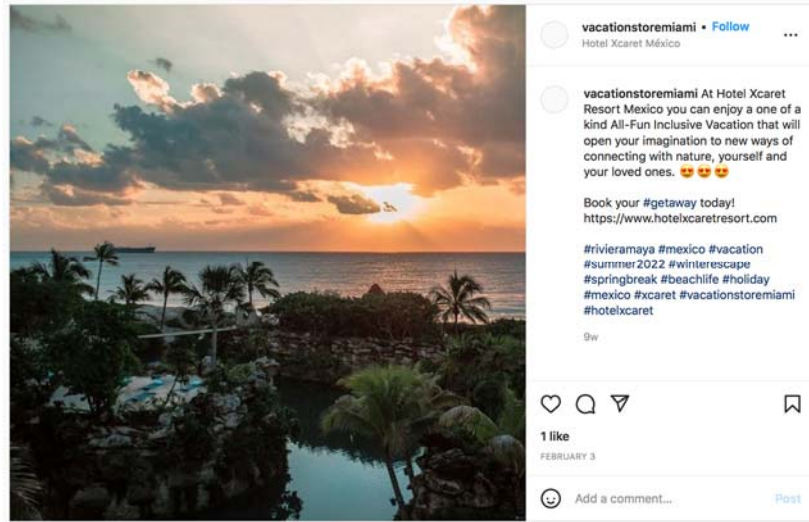
47. On April 24, 2018, Vacation Store engaged in an improper third posting on the Vacation Store Facebook Page providing a link to the Implicated Hotel Xcaret Mexico Website:



48. On November 15, 2018, Vacation Store posted on the Vacation Store Facebook Page again providing a link to Defendants' Implicated Hotel Xcaret Mexico Website:

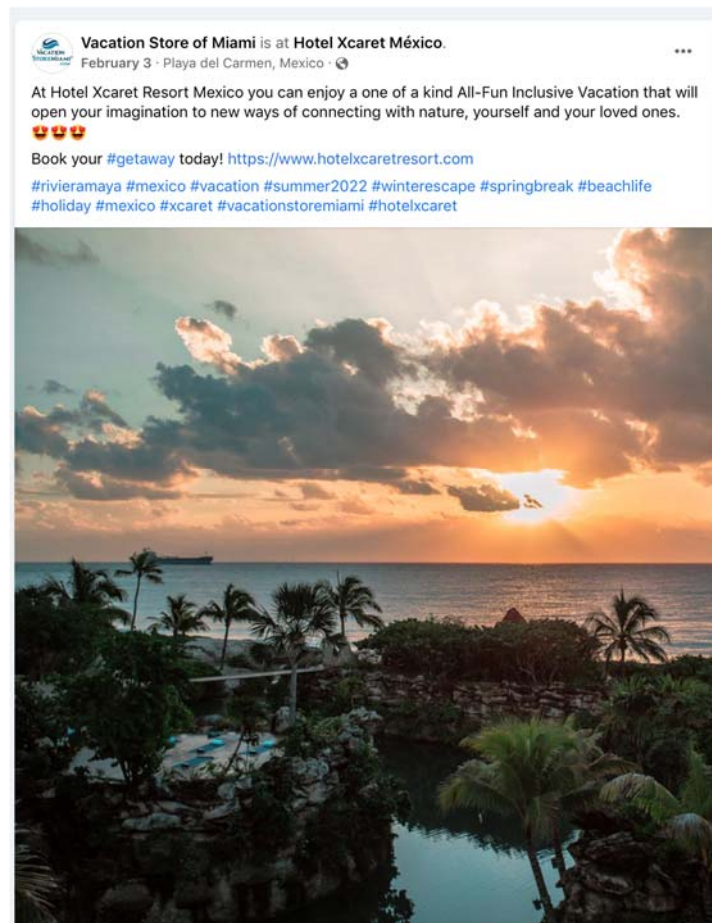


49. Three years later, after the COVID-19 Worldwide pandemic and after United States vacations began to return to travel in the Mexican Caribbean, Defendants resumed their improper scheme of using Xcaret's well-recognized **XCARET** Mark to enhance Defendants' booking services. On February 3, 2022, Vacation Store posted on its Vacation Store Instagram Page, regarding Hotel Xcaret Mexico, links to the Implicated Hotel Xcaret Mexico Website – instead of providing a link to the Xcaret Hotels Website or the Hotel Xcaret Mexico Website:



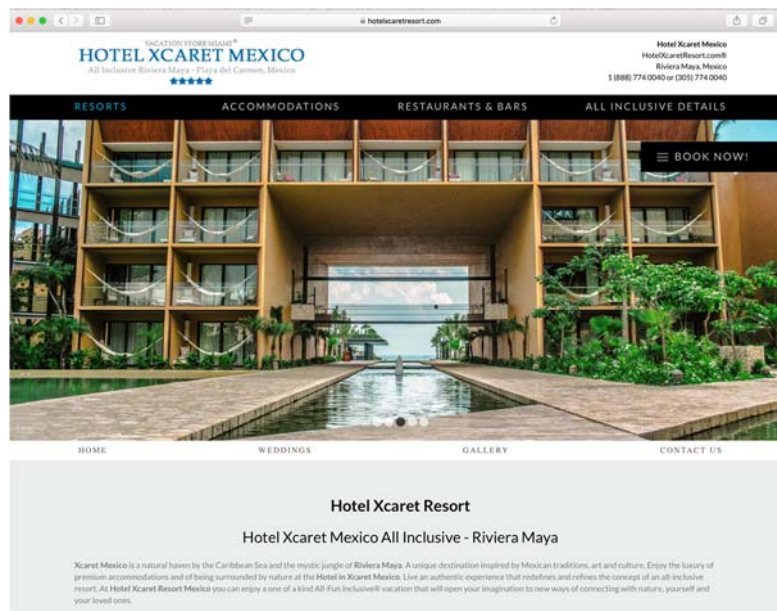
See <https://www.instagram.com/p/CZhxAq8tGyn> (visited May 10, 2022).

50. On February 3, 2022, Vacation Store posted the following on its Vacation Store Facebook Page:

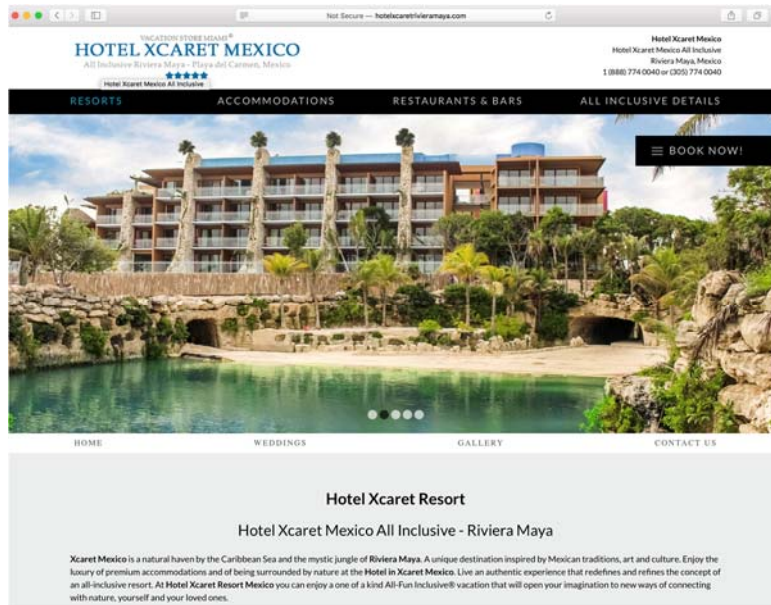


See www.facebook.com/page/134568363259060/search/?q=Xcaret (visited May 10, 2022). As shown yet again, instead of providing a link to the authorized Xcaret Hotels Website or the Hotel Xcaret Mexico Website to allow direct booking – Defendants instead provide a link to their unauthorized Implicated Hotel Xcaret Mexico Website to divert customers away from Xcaret.

51. In short, Defendants on multiple occasions since April 2018 have employed Defendants' social media sites for purposes of diverting potential United States based customers to the Implicated Hotel Xcaret Mexico Website (which improperly and without authorization incorporates the **XCARET** Mark) as a carefully orchestrated scheme to shuttle such customers away from Xcaret's official and authorized websites, which allow direct hotel and travel booking. A screenshot of Defendants' copycat Implicated Hotel Xcaret Mexico Website, which endeavors to appear like and mimic Xcaret's authorized websites, is shown below:



52. Such improper conduct by Defendants also includes social media posts by Vacation Store, which direct potential customers seeking vacation booking services for travel to Xcaret to book through the Implicated Hotel Xcaret Riviera Maya Website – instead of the Xcaret Hotels Website or the Hotel Xcaret Mexico Website:



53. On information and belief, all of the foregoing social media posts on the Vacation Store Facebook Page and/or the Vacation Store Instagram Page were orchestrated under the direction, control, oversight and/or knowledge of Ms. Alvarez and/or Mendez.

54. The Implicated Hotel Xcaret Riviera Maya Website and/or the Implicated Hotel Xcaret Mexico Website were registered as domain names and the underlying websites were programmed, created, managed, updated and/or are owned by Media Insight. Media Insight in turn leases these implicated websites to Vacation Store. Upon information and belief, all of the foregoing is done through the direction, oversight and/or control of Mr. Alvarez.

55. Defendants' Implicated Hotel Xcaret Riviera Maya Website and/or the Implicated Hotel Xcaret Mexico Website are designed to give the appearance and/or suggestion that they are affiliated, endorsed, approved and/or related to Xcaret.

56. Moreover, all of the going social media posts on the Vacation Store Facebook Page and/or Vacation Store Instagram Page were designed, created, posted, and/or overseen by Defendants to improperly suggest that the Implicated Hotel Xcaret Riviera Maya Website and/or the Implicated Hotel Xcaret Mexico Website are affiliated, endorsed, approved, and/or related to

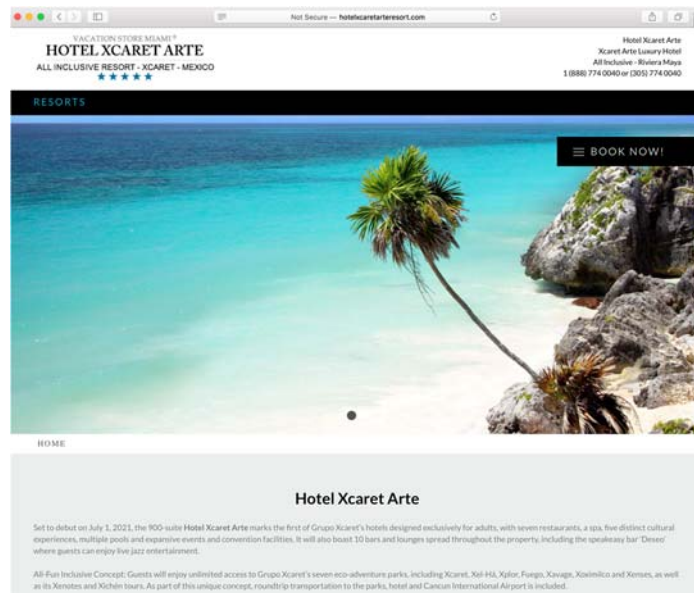
Xcaret.

57. Defendants have gone further by having Mr. Alvarez (the owner of Media Insight) prepare, file, prosecute and register the Implicated Registration for HOTELXCARETRESORT.COM – again to suggest the underlying website is endorsed, approved, and/or related to Xcaret.

58. The foregoing has resulted in lost bookings on the Xcaret Hotels Website or the Hotel Xcaret Mexico Website – all resulting damages to Xcaret.

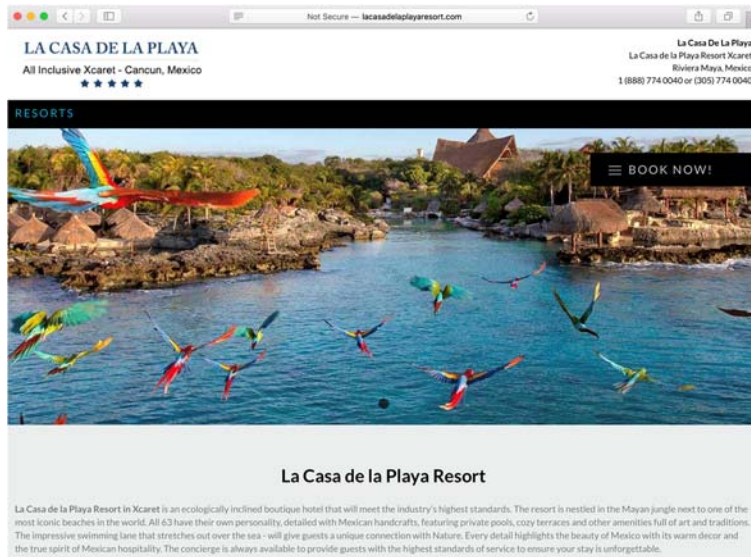
Defendants' Implicated Hotel Xcaret Arte Website and Implicated La Casa Website

59. Vacation Store also advertises and markets its travel booking services for purposes of attracting potential customers seeking to reserve rooms at Hotel Xcaret Arte – including through the Implicated Hotel Xcaret Mexico Website:



See <http://www.hotelxcaretarteresort.com> (viewed May 10, 2022).

60. Vacation Store likewise advertises and markets travel booking services for purposes of attracting potential customers seeking to reserve rooms at La Casa De La Playa through the Implicated La Casa Website:



See <http://www.lacasadelaplayaresort.com> (viewed May 10, 2022).

61. The Implicated Hotel Xcaret Arte Website and the Implicated La Casa Website were registered, created, programmed, and now operate – all under the direction, control, oversight and/or knowledge of Ms. Alvarez and/or Mendez.

62. The Implicated Hotel Xcaret Arte Website and the Implicated La Casa Website were both registered as domain names and the underlying websites were programmed, created, and/or are owned by Media Insight. Media Insight in turn leases these implicated websites to Vacation Store. All of the foregoing is done through the direction and/or oversight of Mr. Alvarez.

63. Defendants' Implicated Hotel Xcaret Arte Website and the Implicated La Casa Website were registered, programmed and created by Mr. Alvarez and/or Media Insight to give the appearance that the websites are affiliated, endorsed, approved, and/or related to Xcaret.

64. The end result is that the Defendants' Implicated Hotel Xcaret Arte Website and the Implicated La Casa Website were designed and now operate to divert potential hotel bookings away from Xcaret – specifically the Hotel Xcaret Arte Website and the La Casa Website.

65. All of the foregoing have resulted in lost bookings on the Hotel Xcaret Arte Website

and/or the La Casa Website – all of which again has resulted in damages to Xcaret.

66. Defendants are slavishly using the **XCARET** Mark for purposes of creating the foregoing copycat Implicated Websites and related social media postings on the Vacation Store Facebook Page and/or the Vacation Store Instagram Page to market and advertise travel booking services to the very same customers as Xcaret.

67. Moreover, the Implicated Websites and related social media postings use the **XCARET** Mark in similar advertising channels as compared to Xcaret.

68. The foregoing actions by Vacation Store and Media Insight – all orchestrated and under the oversight, control, and direction of Ms. Alvarez, Mr. Alvarez and Mendez – constitute clear acts of trademark infringement, unfair competition and cybersquatting, which risk considerable confusion in that United States based customers seeking travel bookings to these three Xcaret hotels will believe that Defendants' Implicated Websites are affiliated, sponsored, endorsed or related to Xcaret. This has caused great damage but also irreparable harm to Xcaret.

COUNT I
FEDERAL UNFAIR COMPETITION – PASSING OFF
15 U.S.C. §1125(a)
(against all Defendants)

69. Xcaret re-alleges and incorporates by reference paragraphs one (1) through sixty-eight (68) as if fully set forth herein.

70. Vacation Store and Media Insight – through the oversight, control, and direction of Ms. Alvarez, Mr. Alvarez and Mendez – have knowingly and intentionally used the **XCARET** Mark (as well as the related marks **HOTEL XCARET MEXICO** and **HOTEL XCARET ARTE**) to advertise in interstate commerce, within multiple marketing channels, on-line hotel and related travel booking services through both the Implicated Websites and the Implicated Hotel Xcaret Riviera Maya Website.

71. Likewise, Vacation Store and Media Insight – through the oversight, control, and direction of Ms. Alvarez, Mr. Alvarez and Mendez – have knowingly and intentionally used the **XCARET** Mark (as well as the related marks **HOTEL XCARET MEXICO** and **HOTEL XCARET ARTE**) to advertise in interstate commerce, within multiple marketing channels, on-line hotel and related travel booking services through the Vacation Store Instagram Page and/or the Vacation Store Facebook Page (including through improper redirection to the Implicated Hotel Xcaret Riviera Maya Website and/or to the Implicated Xcaret Mexico Website).

72. Through the foregoing efforts to use the **XCARET** Mark (as well as the related marks **HOTEL XCARET MEXICO** and **HOTEL XCARET ARTE**), Defendants have endeavored to suggest to relevant United States based customers seeking hotel and travel booking services in the Mexican Caribbean – including but not limited to those seeking to visit the **XCARET** Experiences – that Defendants are affiliated, sponsored and/or related to Xcaret (including the three Xcaret Hotels).

73. Defendants' unauthorized and improper use of the **XCARET** Mark (as well as the related marks **HOTEL XCARET MEXICO** and **HOTEL XCARET ARTE**) suggests that Defendants are authorized to provide specific websites and/or landing pages to offer hotel and/or travel packages for purposes of booking travel to the **XCARET** Experiences and/or for related stays at the three Xcaret Hotels).

74. As such, Defendants' unauthorized and improper use of the **XCARET** Mark (as well as the related marks **HOTEL XCARET MEXICO** and **HOTEL XCARET ARTE**) are likely to cause, has caused, and will continue to cause, confusion among customers as to the origin, sponsorship or approval of Defendants' various hotel and travel booking services (which compete

directly with Xcaret's direct booking options for the **XCARET** Experiences and/or for the three Xcaret Hotels).

75. As such, Defendants' actions are in violation of 15 U.S.C. § 1125(a) in that Defendants have used and continue to use, in relation to commercial activities, a false designation or origin, or a false or misleading description, which is likely to cause confusion, to cause mistake, and to deceive, as to the affiliation, connection, or association with the **XCARET** Mark (as well as the related marks **HOTEL XCARET MEXICO** and **HOTEL XCARET ARTE**).

76. Xcaret has suffered, and will continue to suffer, irreparable harm resulting from the acts of unfair competition by Defendants. Xcaret will suffer additional irreparable harm unless Defendants are enjoined by the Court from continuing those acts, which constitute unfair competition.

77. Xcaret has no adequate remedy at law.

78. Upon information and belief, Defendants acts of unfair competition are willful and this is an exceptional case within the meaning of 15 U.S.C. §1117.

COUNT II
FEDERAL CYBERSQUATTING
15 U.S.C. §1125(d)
(against all Defendants)

79. Xcaret re-alleges and incorporates by reference paragraphs one (1) through sixty-eight (68) as if fully set forth herein.

80. This is an action by Xcaret against Defendants for cybersquatting, based upon Defendants' improper act of registering and/or trafficking internet domain names which include a slavish and confusingly similar mark compared to Xcaret's **XCARET** Mark (as well as the related marks **HOTEL XCARET MEXICO** and **HOTEL XCARET ARTE**).

81. As provided by the foregoing, Xcaret is the exclusive owner of the **XCARET** Mark (as well as the related marks **HOTEL XCARET MEXICO** and **HOTEL XCARET ARTE**) for travel and related hotel booking, including those associated to the **XCARET** Experiences and/or for the three Xcaret Hotels. Xcaret enjoys exclusive rights in those strong and distinctive marks, protectable under 15 U.S.C. § 1125(a) as well as other related common law rights.

82. Defendants improperly registered the www.HotelXcaretRivieraMaya.com (the “Implicated Hotel Xcaret Riviera Maya Website”) as well as the three Implicated Domain Names.

83. Defendants registration and later launch of the Implicated Hotel Xcaret Riviera Maya Website and/or the Implicated Websites were orchestrated specifically to divert United States based customers from Xcaret’s various websites relating to travel booking services for the **XCARET** Experiences and/or for the three Xcaret Hotels – all for commercial gain and/or to create a likelihood of confusion as to the source, sponsorship, or affiliation of the Xcaret Hotels Website and/or the websites associated with the following three Xcaret Hotels:

La Casa De La Playa	https://www.lacasadelaplaya.com/en	“La Casa Website”
Hotel Xcaret Mexico	https://www.hotelXcaretmexico.com/en	“Hotel Xcaret Mexico Website”
Hotel Xcaret Arte	https://www.hotelXcaretarte.com/en	“Hotel Xcaret Arte Website”

As such, Defendants’ actions constitute bad faith under 15 U.S.C. §1125(d)(1)(B)(i)(V).

84. Accordingly, Defendants’ bad faith actions are in direct violation of 15 U.S.C. §1125(d) and accordingly require forfeiture of Defendants’ domain names associated with Xcaret and/or include the **XCARET** Mark within those domains and/or website addresses, including (a) www.HotelXcaretRivieraMaya.com as well as (b) Defendants’ three Implicated Domain Names.

85. Likewise, Defendants actions have caused and will continue to cause irreparable harm, lost profits, and loss of sales.

86. Xcaret will continue to suffer additional irreparable harm unless Defendants are enjoined by the Court from continuing these acts, which constitute cybersquatting.

87. Xcaret has no adequate remedy at law.

88. Upon information and belief, Defendant's acts of unfair competition are willful and this is an exceptional case within the meaning of 15 U.S.C. §1117.

COUNT III
FLORIDA COMMON LAW UNFAIR COMPETITION
(against all Defendants)

89. Xcaret re-alleges and incorporates by reference paragraphs one (1) through sixty-eight (68) as if fully set forth herein.

90. This is an action of unfair competition under the laws of the State of Florida.

91. Defendants' aforesaid activities constitute unfair competition and an infringement of Xcaret's Florida-based common law rights in Xcaret's **XCARET** Mark (as well as the related marks **HOTEL XCARET MEXICO** and **HOTEL XCARET ARTE**) based upon Defendants' efforts to "pass off" their online marketing and advertising activities both on social media and via its aforementioned improper websites as being associated, affiliated with, or endorsed by Xcaret.

92. Xcaret has been damaged by Defendants knowing and willful acts of unfair competition, including but not limited to its adoption and continued use of the name **XCARET**, which has created a likelihood of confusion.

93. This common law unfair competition has caused and, unless enjoined, will continue to cause Xcaret irreparable harm.

94. Xcaret has no adequate remedy at law.

COUNT IV
CANCELLATION OF REGISTRATION UNDER 15 U.S.C. §1119 AND §1064
(against Mr. Alvarez only)

95. Xcaret re-alleges and incorporates by reference paragraphs one (1) through sixty-eight (68) as if fully set forth herein.

96. This is an action against Mr. Alvarez for cancellation of the Implicated Registration for HOTELXCARETRESORT.COM due to Xcaret's priority of use, as well as Mr. Alvarez's fraudulent, improper and/or unauthorized filing for the underlying trademark application which incorporates the **XCARET** Mark.

97. Xcaret enjoys priority of use regarding and relating to the name **XCARET** and/or any mark that relates to Xcaret's three Xcaret hotels. This includes the mark **XCARET RESORT** and/or mark **HOTEL XCARET RESORT**. Moreover, Xcaret owns the underlying Hotel Xcaret Mexico – a resort located in the Mexican Caribbean.

98. When Mr. Alvarez caused the underlying application for the mark HOTELXCARETRESORT.COM to be filed, he executed the following declaration on or about April 12, 2018:

To the best of the signatory's knowledge and belief, **no other persons, except, if applicable, concurrent users, have the right to use the mark in commerce, either in the identical form or in such near resemblance** as to be likely, when used on or in connection with the goods/services of such other persons, to cause confusion or mistake, or to deceive.

99. Mr. Alvarez executed the following declaration in April 2018 knowing that Xcaret had opened just four months prior the Hotel Xcaret Mexico as a AAA five-diamond resort proximate to the Xcaret Park. Execution of the foregoing declaration by Mr. Alvarez clearly constitutes Fraud on the USPTO, and that declaration was intentionally submitted by Mr. Alvarez well knowing of the recently and well publicized launch of Hotel Xcaret Mexico by Xcaret.

100. As such, Xcaret petitions this Court as it believes it has and/or will be damaged and/or prejudiced as a result of the continued registration of U.S. Trademark Registration No. 5,557,658 for HOTELXCARETRESORT.COM, as owned and/or registered by Mr. Alvarez.

PRAYER FOR COSTS AND ATTORNEY FEES

Plaintiffs GRUPO EXPERIENCIAS XCARET, S.A.P.I. DE C.V., EXPERIENCIAS XCARET HOTEL, S.A.P.I. DE C.V. and DESTINO XCARET S.A.P.I. DE C.V. request award of reasonable costs and attorney fees pursuant to the Lanham Act and/or applicable Florida Statutes.

REQUEST FOR JURY TRIAL

Plaintiffs GRUPO EXPERIENCIAS XCARET, S.A.P.I. DE C.V., EXPERIENCIAS XCARET HOTEL, S.A.P.I. DE C.V. and DESTINO XCARET S.A.P.I. DE C.V. request jury trial of all matters so triable as a matter of right.

PRAYER FOR RELIEF

WHEREFORE, for all of the foregoing reasons, Plaintiffs GRUPO EXPERIENCIAS XCARET, S.A.P.I. DE C.V., EXPERIENCIAS XCARET HOTEL, S.A.P.I. DE C.V. and DESTINO XCARET S.A.P.I. DE C.V. request this Honorable Court grant relief in the following manner:

a. Defendants and their agents, servants, employees, and those people in active concert or participation with them be preliminary and/or permanently enjoined from infringing on Plaintiffs' XCARET Mark (as well as the related marks **HOTEL XCARET MEXICO** and **HOTEL XCARET ARTE**) or any colorable imitations thereof.

b. Defendants transfer all domain name rights to Plaintiffs regarding the www.HotelXcaretRivieraMaya.com domain name, the three Implicated Domain Names, and/or

any domain name that incorporates and/or includes the **XCARET** Mark or any colorable imitations thereof.

c. Cancellation of U.S. Trademark Registration No. 5,557,658 for the mark HOTELXCARETRESORT.COM.

d. Plaintiffs be awarded any and all monetary remedies available under the Lanham Act, Florida common law and/or applicable Florida statutory law, including but not limited to, penalties and fines, compensatory damages, treble damages, willful damages, disgorgement of profits, interest, costs and attorney's fees as legally permitted by each of the foregoing four causes of action respectively.

e. Any and all other relief that this Honorable Court deems just.

Respectfully submitted this 11th Day of May, 2022.

/s/ **Robert H. Thornburg**

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